

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
DUBOIS TELEPHONE EXCHANGE, INC.)	
)	
and)	
)	CC Docket No. 96-45
QWEST CORPORATION)	
)	
Joint Petition for Waiver of the Definition)	
of "Study Area" Contained in Part 36,)	
Appendix-Glossary of the Commission's Rules)	
)	

JOINT PETITION FOR EXPEDITED WAIVER

Dubois Telephone Exchange, ("Dubois") and Qwest Corporation ("Qwest"), (collectively, "Petitioners") by and through their undersigned counsel, hereby request a waiver of the definition of "study area" contained in the Appendix-Glossary of Part 36 of the Rules of the Federal Communications Commission ("Commission") with respect to a transfer in Carbon County, Wyoming previously approved by the Wyoming Public Service Commission ("Wyoming Commission"). The specific transfer for which Petitioners request a study area waiver relates to the 2008 transfer of certain certificated area from Qwest to Dubois in Carbon County, Wyoming.

The 2008 transfer concerns the area described as: All of Township 15 N, R 90 W; Township 16 N, R 90 W; Township 17 N, R 90 W; Township 15 N, R 91 W; Township 16 N, R 91 W; Township 17 N, R 91 W; Township 15 N, R 92 W; Township 16 N, R 92 W; and Township 17 N, R 92 W, in Carbon County, Wyoming. This territory, previously certificated to Qwest, adjoins the Dubois study area. In 2007, Petitioners received several requests for

telecommunications service in this area. As Qwest has no facilities in the area, it would be difficult to serve potential customers. Dubois has facilities relatively close to the locations for which service has been requested and is willing and able to serve this area.

Accordingly, Petitioners proposed to the Wyoming Commission that Dubois provide telecommunications service to the area, as it could more expeditiously provide the service through the use of its existing facilities. No existing customers will be impacted by the proposed transfer of facilities. *See Exhibit A.*

The Joint Application also proposed that Dubois should serve in certain presently uncertificated territory located adjacent to Qwest's certificated area. The uncertificated territory is more particularly described as: All of Township 15 N, R 93 W; Township 16 N, R 93 W; and Township 17 N, R 93 W, in Carbon County, Wyoming. While this territory has been undeveloped in the past, there is a need for service and the Petitioners requested that Dubois serve this territory because Dubois is able to serve the uncertificated area with its facilities. The Wyoming Commission approved the transfer by Notice and Order Issued January 10, 2008. *See Exhibit B.*

COMPLIANCE WITH "ONE PERCENT" CONDITION

In the instant case, no existing customers are affected, Dubois certifies that the study area waiver will not cause a shift in Universal Service Fund ("USF") cost recovery in an amount equal to or greater than one percent of the total USF assistance for 2007. The most recent Universal Service Administrative Company ("USAC") projection for High Cost Support for 2008 is \$ 4,580,195,546.¹ As indicated below, the projected USF impact of the subject

¹ Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the First Quarter 2008*, at Appendix HC02.

transaction is \$0.00, which is not even close to the \$45,801,955 that constitutes one percent of the projected High Cost Support for 2007.

STUDY AREA WAIVER

The Commission froze study area boundaries as of November 15, 1984, to prevent telephone holding companies from setting up high cost exchanges within their existing service territories as separate companies in order to maximize high cost support.² The Commission expressly stated at the time that study areas were not frozen to “discourage the acquisition of high cost exchanges or the expansion of service to high cost areas.”³

In reviewing study area waiver petitions, the Commission employs the following three-prong standard: (1) the change in study area boundaries must not adversely affect the universal service fund; (2) no state commission having regulatory authority over the transferred exchanges may oppose the transfer; and (3) the transfer must be in the public interest.⁴

Universal Service Fund. The *Skyline Order* found that rural carriers that acquire “unserved” areas having no facilities or customers can receive high-cost universal service

² See *In the Matter of MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Recommended Decision & Order, 57 RR 2d 267, 290 ¶ 65 (1984).

³ *MTS/WATS Market Structure and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Decision and Order, 49 Fed. Reg. 48325, 48337 ¶ 65 (1984).

⁴ See, e.g., *In the Matter of US West Communications, Inc. and South Central Utah Telephone Association, Inc., Joint Petition for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix-Glossary of the Commission's Rules and South Central Utah Telephone Association, Inc., Petition for Waiver of Sections 61.41(c) of the Commission's Rules*, Memorandum Opinion and Order, 9 FCC Rcd 198 (1993); *In the Matter of US West Communications, Inc. and Triangle Telephone Cooperative Associations, Inc., et al., Joint Petitions for Waiver of the Definition of “Study Area” contained in Part 36, Appendix-Glossary of the Commission's Rules*, Memorandum Opinion and Order, 9 FCC Rcd 202 (1993).

support based upon their own embedded costs.⁵ It held that the Section 54.305(a) limitations upon support applied only where there was a transfer of facilities or customers.⁶

In the present case, the incremental annual USF received by Dubois as a result of all of the transaction is \$0.00. This amount does not reach the \$45,801,955 that constitutes one percent of the projected High Cost Support for the year.

State Commission Approval. The Wyoming Commission has previously issued an order approving the transfer. The Wyoming Commission declared that the transfer is consistent with the public interest and allowed the public an opportunity to object; no objections were filed. Consequently, the Order of the Wyoming Commission must be interpreted to be in support of the grant of the federal study area waiver.

Public Interest Benefits. Consistent with the finding of the Wyoming Commission, the goal of federal universal service policy is to “make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.”⁷ Whereas most areas and people of this nation have access to telecommunications facilities and services, there are still some un-served and under-served areas. Bringing service to these areas remains one of the primary public interest goals of U.S. telecommunications policy.

As found by the Wyoming Commission, it is in the public interest to allow service to be extended in an area by the provider that can most efficiently provide such service.

⁵ *In the Matter of M&L Enterprises, Inc., d/b/a Skyline Telephone Company, Petition for Waiver of Sections 36.611, 36.612, and 69.2 (hh) of the Commission's Rules*, Order, 19 FCC Rcd 6761, 6767-68 ¶ 16 (2004).

⁶ *Id.*

⁷ 47 U.S.C. § 151.

CONCLUSION

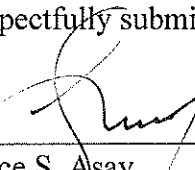
Petitioners have met their burden of proving that the proposed study area boundary waiver will not adversely affect the Universal Service Fund; is not opposed by the Wyoming Commission; and will be in the public interest.

WHEREFORE, Petitioners respectfully request waiver of the frozen study area boundaries to allow the subject transaction.

Dated this 12th day of ^{March} February, 2008.

Respectfully submitted,

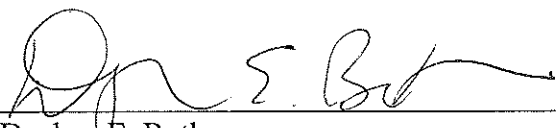
By: _____


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Attorneys for

QWEST CORPORATION

OCT 19 2007

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE JOINT APPLICATION)
OF DUBOIS TELEPHONE EXCHANGE, INC.,)
AND QWEST CORPORATION TO TRANSFER,)
ASSIGN AND ACQUIRE CERTAIN)
CERTIFICATED AREAS.)

Docket No. 70000-1361-TA-07
70007-48-TA-07

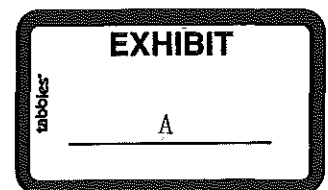
JOINT APPLICATION FOR TRANSFER, ASSIGNMENT
AND ACQUISITION OF CERTIFICATED AREA

Dubois Telephone Exchange, Inc., ("Dubois") and Qwest Corporation, ("Qwest")
(jointly referred to as Applicants) hereby file a Joint Application with this Commission
for authority to transfer, assign and acquire certain certificated and uncertificated areas
and the requisite authority from Qwest to Dubois. In support, Applicants state as
follows:

1. Dubois Telephone Exchange, Inc., ("Dubois"), is a telecommunications company
as defined by W.S. § 37-15-101 *et seq.*, providing local exchange and related
telecommunications services within its certificated areas within the State of Wyoming, including
Carbon County.

2. Qwest Corporation is a telecommunications company as defined by W.S. § 37-15-
101 *et seq.*, providing local exchange and related telecommunications services within its
certificated areas within the State of Wyoming, including Carbon County.

3. As local exchange carriers providing incumbent essential telecommunications
services, Applicants are required to obtain and maintain certificates of public convenience and
necessity to provide telecommunications services within specified areas with the State of
Wyoming.



4. There are certain areas presently certificated to Qwest in Carbon County, Wyoming that presently do not have telecommunications services, particularly that area north of Baggs, Wyoming. In the past this area has not been populated or had a need for telecommunications services. As the development of oil and gas has increased in the area, so has the need for telecommunications services. As Dubois has facilities available, it is willing and able to serve this area.

5. Although there have been requests for telecommunications services in this area from potential customers, it would be difficult for Qwest to serve these potential customers as it has no facilities in the area. As Dubois has facilities relatively close to the requests for service, it is in the public interest to transfer the subject certificated areas to Dubois in order to more readily have telecommunications service available in the subject areas. Dubois can provide expeditious service within a short period of time by utilizing its existing facilities. Indeed, Dubois has facilities close to the areas within and outside Qwest's certificated areas that have a need for service.

6. The area of Qwest's service territory affected by the requests for service is located Carbon County, Wyoming. It is legally described below:

All of Township 15 N, R 90 W; Township 16 N, R 90 W; Township 17 N, R 90 W; Township 15 N, R 91 W; Township 16 N, R 91 W; Township 17 N, R 91 W; Township 15 N, R 92 W; Township 16 N, R 92 W; Township 17 N, R 92 W in Carbon County, Wyoming.

7. In addition to the above Qwest certificated area, there is certain uncertificated territory located adjacent to Qwest's certificated area. While this area has been undeveloped in the past, there is a need for service and Dubois requests that such territory be included in the

instant transfer as it allows Dubois to serve the entire area with its facilities. As Dubois will be utilizing existing facilities to connect potential customers, the transfer is in the public interest.

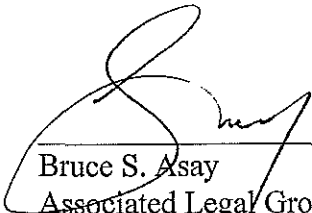
The uncertificated area is legally described below:

All of Township 15 N, R 93 W; Township 16 N, R 93 W; Township 17 N, R 93 W, in Carbon County, Wyoming.

8. As it would be in the public interest to allow the Applicants to transfer, assign and acquire the certificated area identified herein and include the uncertificated area described above, the transfer and acquisition of certificated and noncertificated areas should be considered to be consistent with the public interest and approved by the Commission.

WHEREFORE, Dubois Telephone Exchange, Inc. and Qwest Corporation hereby jointly request that the Commission transfer the above referenced areas from Qwest to Dubois as described in the Joint Application. Further, that the Commission allow Dubois to acquire that area described as uncertificated as part of this Application.

DATED this 19th day of October, 2007.



Bruce S. Asay
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(307) 632-2888
Attorney for Dubois Telephone

VERIFICATION

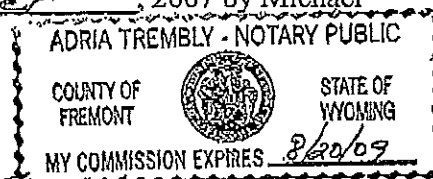
STATE OF WYOMING)
) ss.
COUNTY OF FREMONT)

I, Michael Kenney, Vice President and General Manager of Dubois Telephone Exchange, Inc., hereby depose and state that I have read the foregoing Joint Application and all facts relating to Dubois Telephone and on behalf of the Company, would affirm that they are true and correct and would agree to the provisions of the transfer as requested.


Michael Kenney
Dubois Telephone Exchange, Inc.

Subscribed and sworn to before me this 18 day of October, 2007 by Michael Kenney.

My Commission Expires: 8/20/09





Notary Public

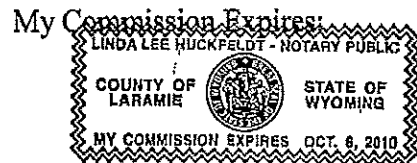
VERIFICATION

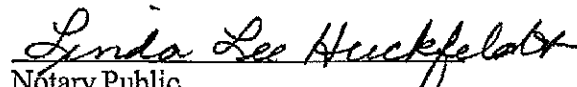
STATE OF WYOMING)
) ss.
COUNTY OF LARAMIE)

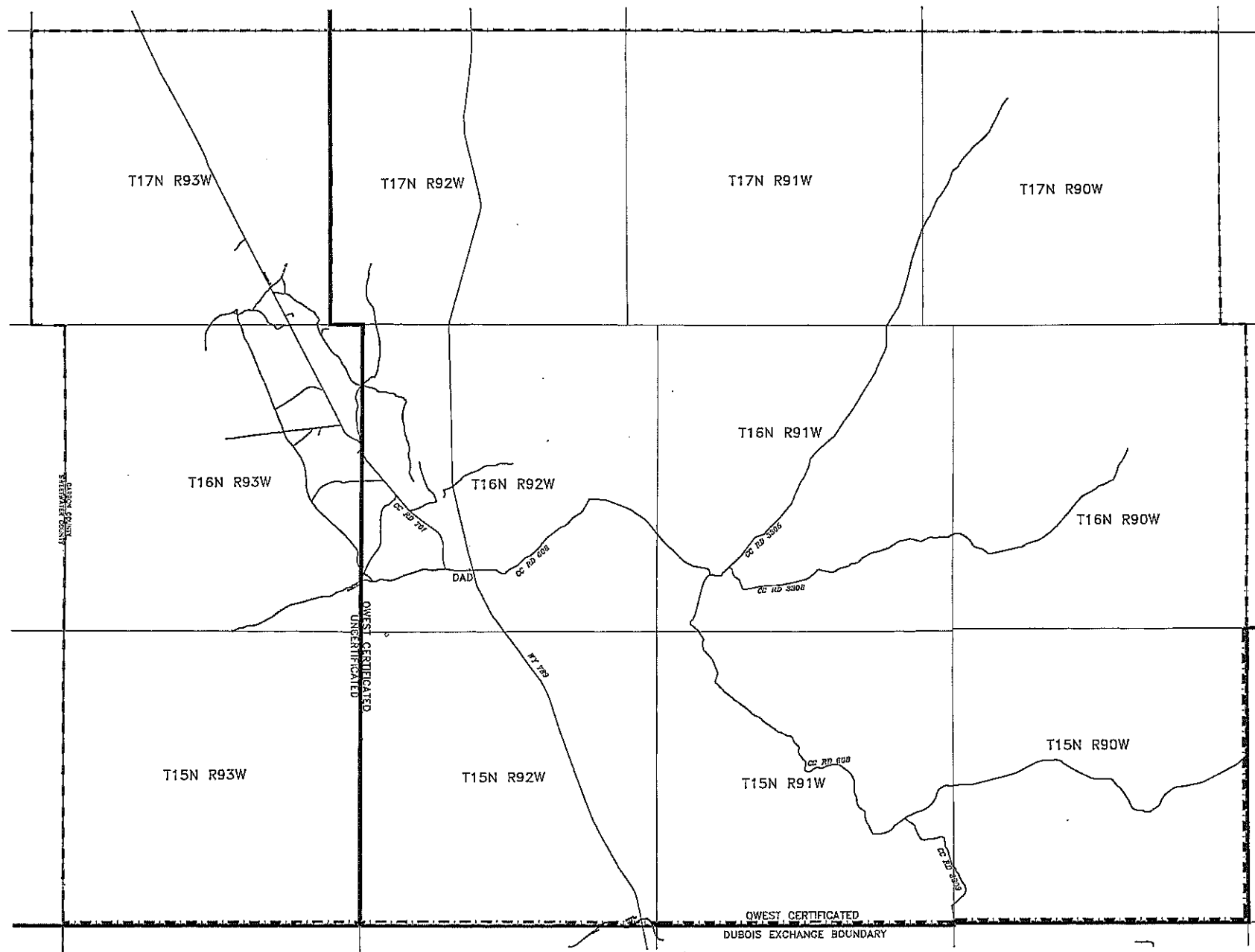
I, Michael Ceballos, Vice President, Wyoming Qwest Corporation, hereby state that I have read the foregoing Joint Application and affirm the facts relating to Qwest Corporation and on behalf of the Company, would affirm that they are true and correct and would agree to the provisions of the transfer as requested.


Michael Ceballos
Qwest Corporation

Subscribed and sworn to before me this 16th day of October, 2007 by Michael Ceballos.




Notary Public



BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE JOINT)
APPLICATION OF DUBOIS TELEPHONE)
EXCHANGE, INC., AND QWEST)
CORPORATION FOR AUTHORITY TO)
TRANSFER, ASSIGN AND ACQUIRE)
CERTAIN CERTIFICATED AND)
UNCERTIFICATED AREAS)

DOCKET NO. 70000-1361-TA-07
DOCKET NO. 70007-48-TA-07
(RECORD NO. 11464)

ORDER

(Issued January 10, 2008)

This matter is before the Wyoming Public Service Commission (Commission) upon the joint application of Dubois Telephone Exchange, Inc. (Dubois) and Qwest Corporation (Qwest) hereinafter collectively referred to as the Applicants, for authority to transfer, assign and acquire certain certificated and uncertificated areas, as set forth more fully below.

The Commission having reviewed the joint application, its files regarding Dubois and Qwest, applicable telecommunications law and otherwise being fully advised in the premises, FINDS and CONCLUDES:

1. Dubois and Qwest are telecommunications companies as defined by W.S. § 37-15-103(a)(xi) and, as such, subject to the Commission's jurisdiction under W.S. § 37-15-401.

2. Dubois and Qwest filed their joint application on October 19, 2007. The Applicants propose to transfer to Dubois certain areas presently certificated to Qwest in Carbon County, Wyoming, in the area north of Baggs, more particularly described as: All of Township 15 N, R 90 W; Township 16 N, R 90 W; Township 17 N, R 90 W; Township 15 N, R 91 W; Township 16 N, R 91 W; Township 17 N, R 91 W; Township 15 N, R 92 W; Township 16 N, R 92 W; and Township 17 N, R 92 W, in Carbon County, Wyoming.

3. The joint application states that, in the past, this area has not been populated; but, as the development of oil and gas increased in the area, so has the need for telecommunication services. Although there have been several requests for telecommunications service in this area, it would be difficult for Qwest to serve these potential customers as it has no facilities in the area. Dubois has facilities relatively close to the locations for which service has been requested, and is willing and able to serve this area. The Applicants state that it is in the public interest to transfer the subject certificated areas to Dubois to make telecommunication service more readily available in Carbon County, Wyoming.

4. The joint application also proposes that Dubois should serve in certain presently uncertificated territory located adjacent to Qwest's certificated area. The uncertificated territory is more particularly described as: All of Township 15 N, R 93 W;

Township 16 N, R 93 W; and Township 17 N, R 93 W, in Carbon County, Wyoming. While this territory has been undeveloped in the past, there is a need for service; and the Applicants request that Dubois serve this territory because Dubois is able to serve the uncertificated area with its facilities. The joint application states that because Dubois will utilize existing facilities to connect potential customers, the transfer is in the public interest.

5. The Commission issued a *Notice of Application* on November 6, 2007, which generally described the application and provided for an intervention deadline of December 7, 2007. The notice was published once per week for two consecutive weeks in the *Casper Star Tribune* and the *Rawlins Daily Times*. Notice was broadcasted on radio five times per week for two consecutive weeks on KTWB in Casper and KRAL in Rawlins. No comments or petitions to intervene were filed.

6. The joint application came before the Commission at its duly noticed open meeting on December 21, 2007. Mr. Michael Fox and Mr. Bruce Asay appeared on behalf of Dubois Telephone; and Mr. Jeff Hubbard appeared on behalf of Qwest. The Applicants provided a summary of the joint application, stating the application responds to several customer requests for service and the transfer will promote efficiency and ease of providing service to future developments. Mr. Fox further stated no existing customers will be impacted by the proposed transfer of certificated territories.

7. The Commission finds and concludes, based upon the representations of the Applicants in their joint application and the comments of Mr. Fox, the proposed transfer of certificated areas and certification of other areas to Dubois, as described above, serve the public interest. The present and future public convenience and necessity require these actions, and they should be approved.

IT IS THEREFORE ORDERED:

1. Pursuant to open meeting action taken on December 21, 2007, the joint application of Dubois Telephone Exchange, Inc., and Qwest Corporation for authority to transfer certain described portions of Qwest's certificated service areas to Dubois and for Dubois to become certificated to serve in the uncertificated areas, as described herein, is hereby approved.

2. Dubois Telephone Exchange, Inc., and Qwest Corporation shall promptly file all necessary revised exchange maps showing the transfer of certificate authority and the newly certificated Dubois service area.

3. This *Order* is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, this 10th day of January, 2008.

PUBLIC SERVICE COMMISSION OF WYOMING

Kathleen A. Lewis

KATHLEEN A. LEWIS, Chairman

Steve Oxley

STEVE OXLEY, Deputy Chairman

Mary Byrnes

MARY BYRNES, Commissioner



Attest:

Victoria Hansen

VICTORIA J. HANSEN, Assistant Secretary